IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 5515 of 2005

Between:

Anjuman-E-Ahle Islam Committee, rep. by its President
Sri Shaik Bikku Saheb, Yerraguntla Post & Mandal,
Kadapa District.

..... PETITIONER

AND

1 Shaik Mahaboob Basha, S/o Abdul Ali Saheb, Muslim,
R/o 6/3, Hasan Saheb St, Yerraguntla Village & Mandal,
Kadapa District.
2 Smt. Axizunna Begum, W/o Shaik Mahaboob Basha, Muslim,
R/o 6/3, Hasan Saheb St, Yerraguntla Village & Mandal,
Kadapa District.
3 Shaik Muneer Basha, S/o Abdul Ali Saheb, Muslim,
R/o D.No. 6/3, Hasan Saheb St, Yerraguntla Village & Mandal,
Kadapa District.
4 The District Collector, Kadapa District at Kadapa.
5 The Mandal Revenue Officer, Yerraguntala Mandal, Kadapa District.
6 The Station House Officer, Police Station, Yerraguntala Mandal, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction particularly Writ of Mandamus directing the fifth respondent to act in accordance with his notice in Ref.B.60/2003 dated 21-7-2003 and evict the respondents 1, 2 and 3 from the burial ground and Mosque, situated in S.No.488/3 an extent of 0.34 cents and S.No.488/4 an extent of 0.30 cents in Yerraguntla Village and Mandal, Kadapa district and to direct the Registrar of High Court or any other Officer subordinate to him to lodge the complaint against the respondents 1, 2 and 3 for prosecution of the offence punishable under Section 193 IPC and pass such other orders.

For the Petitioner: MR.M.N.Narasimha Reddy
For the Respondents 1 to 3: Mr. Mohd. Ghulam Rasool
For the respondents 4 and 5: G.P. for Revenue
For the respondent No.6: G.P. for Home

The Court made the following :

ORAL ORDER:

Heard the learned counsel for the petitioner, Sri Md. Ghulam Rasool, learned counsel appearing R-1 to R-3, learned Government Pleader for Revenue for R-4 and R-5 and learned Government Pleader for Home for R-6.

The petitioner-Anjuman-E-Ahle Islam Committee (for short "the petitioner-committee") filed the present writ petition seeking a direction to the fifth respondent to act in accordance with notice in Ref.B.No.60/2003 dt. 21-7-2003 and evict the respondents 1,2, and 3 from the burial ground and Mosque situate in S.No.488/3 ad-measuring Ac.0.34 cents and S.No.488/4 ad-measuring Ac.0.30 cents in Yerraguntla village and Mandal, Kadapa District and for a consequential direction to the Registrar of High Court to lodge a complaint against the respondents 1,2 and 3 for prosecution of the offence punishable under Section 193 IPC.

The respondents 1 and 2 herein, who are petitioners filed WP No.2812/2004 questioning notice dt. 21-7-2003, whereunder the petitioners were called upon to appear before the Mandal Revenue Officer, Yerraguntla Mandal along with relevant documents stating that on receipt of the said impugned notice, they appeared before the Mandal Revenue Officer on 29-7-2003 and produced the judgment and decree obtained by them in OS No.187/1993 dt. 18-10-1996 from the competent civil court, and without passing any orders, the respondents therein with the help of police are trying to evict the petitioners. The said writ petition was disposed of at the stage of admission observing that the impugned order is only a notice in which the petitioners were called upon to appear on the date of enquiry with necessary documents and pursuant to the said notice, the petitioners submitted their explanation along with the judgment and decree, the Mandal Revenue Officer was directed to pass appropriate orders after due notice and intimate the same to the petitioners. Till such orders are passed, they shall not be dispossessed from the land in question.

In this writ petition, the petitioner-committee states that against the judgment and decree passed in OS No.187/93 dt. 18-10-1996, its Predecessors-in- management preferred AS No.59/1996 before the Senior Civil Judge, Proddatur and the said appeal was allowed remanding matter to trial court for fresh disposal. After such remand, the same was

transferred to the court of Junior Civil Judge, Lakkireddipalli and renumbered as OS No.1/2002 and on its contest the same was dismissed on 28-2-2002. The plaintiffs in the above suit, who are respondents 1 to 3 herein have preferred an appeal before the II Additional District Judge, Kadapa at Proddatur. As there was a delay, petition to condone delay in preferring appeal was filed in I.A.No.96/2003 was allowed on payment of costs of Rs.200/-. As costs were not paid, the said petition was dismissed. Later respondents 1 to 3 filed IA No.491/2003 for restoration of IA No.96/2003, which was also dismissed on 10-9-2003. Challenging the judgment and decree passed in OS No.1/2002 dt.28-2-2002, the respondents 1 and 3-plaintiffs filed CRP No.1831/2003 before this court and obtained orders of status quo on 2-5-2003 without bringing to the notice of this court about preferring the appeal against the judgment and decree along with condone delay petition. Though the plaintiffs obtained status quo order on 2-5-2003 they allowed CRP to be dismissed for default on 29-10-2003, therefore their occupation is illegal. The said facts were not brought to the notice of this court while disposing of earlier writ petition. In view of the same, the above WP came to be filed.

Earlier in WP this court only directed to consider the explanation submitted pursuant to the notice issued to the respondents 1 and 2 and pass appropriate orders after taking into explanation and judgment and decree in OS No.187/1993 and till such orders are passed, they shall not be dispossessed. Even the notice issued clearly indicates that the respondents 1 to 2 herein are in possession of the property, for which eviction was sought, it is obligatory on the part of the Mandal Revenue Officer, Yerraguntla to pass a speaking order. Till passing of such orders no further steps shall be taken for due their eviction. In view of the same, it is for the petitioner-Committee to file all such documents before the Mandal Revenue Officer, Yerraguntla and on filing such documents, the Mandal Revenue Officer shall receive the same and pass appropriate orders basing upon the documents by giving an opportunity to the petitioners in WP No.2812/2004 and petitioner—committee as well.

With the above observations, WP (SR) No.117508/2004 is disposed of.

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A.GOPAL REDDY,J

Dt.09-03-2005

Kmr/Murthy

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector, Kadapa District at Kadapa.
2. The Mandal Revenue Officer, Yerraguntala Mandal, Kadapa District.
3. The Station House Officer, Police Station, Yerraguntala Mandal, Kadapa District.

4. 2 CCs to the Government Pleader for Revenue, High Court Buidlings, Hyderabad.

5. 2 Ccs to the Government Pleader for Home, High Court Buildings, Hyderabad.

6. 2 CD copies